

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Criminal No.  
13-10164-WGY

\* \* \* \* \*

UNITED STATES OF AMERICA

v.

**PRETRIAL CONFERENCE**

MICHAEL BOURQUE, et al.

\* \* \* \* \*

BEFORE: The Honorable William G. Young,  
District Judge

APPEARANCES:

MICHAEL I. YOON, Assistant United States  
Attorney, 1 Courthouse Way, Suite 9200, Boston,  
Massachusetts 02210, on behalf of the Government

LAW OFFICES OF WILLIAM H. CONNOLLY  
(By William H. Connolly, Esq.), 20 Park Plaza,  
Suite 1000, Boston, Massachusetts 02210, on behalf  
of Michael Bourque

SWOMLEY & TENNEN, LLP (By John G. Swomley,  
Esq.), 227 Lewis Wharf, Boston, Massachusetts  
02110-3927, on behalf of Robert Hagenaars

LAW OFFICE OF JOHN F. PALMER, P.C. (By John  
F. Palmer, Esq.), Seven Faneuil Hall Marketplace,  
North Building, 3rd Floor, Boston, Massachusetts  
02109, on behalf of Brian Chisholm

DEMISSIE & CHURCH (By Derege B. Demissie,  
Esq.), 929 Massachusetts Avenue, Suite 01,  
Cambridge, Massachusetts 02139, on behalf of  
Phillip Goolst

RUDOLPH FRIEDMANN, LLC (By William A.  
Korman, Esq.), 92 State Street, 8th Floor, Boston,  
Massachusetts 02109, on behalf of Thomas Ehwa

1 Courthouse Way  
Boston, Massachusetts

December 12, 2013

**A P P E A R A N C E S** (Cont'd)

LAW OFFICE OF E. PETER PARKER (By E. Peter Parker, Esq.), 151 Merrimac Street, Boston, Massachusetts 02114, on behalf of Frank McGuire

LAW OFFICE OF LESLIE FELDMAN-RUMPLER (By Leslie Feldman-Rumpler, Esq.), 101 Tremont Street, Suite 708, Boston, Massachusetts 02108, on behalf of Michael Roy

DHAR LAW LLP (By Robert M. Griffin, Esq.), Two Atlantic Avenue, 4th Floor, Boston, Massachusetts 02110, on behalf of Christopher Yancey

BASSIL, KLOVEE & BUDREAU (By James H. Budreau, Esq.), 20 Park Plaza, Suite 1005, Boston, Massachusetts 02116, on behalf of Corey Assencoa

LIAM D. SCULLY, ESQ., 101 Summer Street, Fourth Floor, Boston, Massachusetts 02110, on behalf of Sean Cotter

DOMBROWSKI & AVENI (By John M. Dombrowski, Esq.), 6 Grove Avenue, Leominster, Massachusetts 01453-3324, on behalf of Mark Ouellette

MCCORMICK & MAITLAND (By Edward J. McCormick, III, Esq.), 195 Main Street, Suite Six - Hayward Manor, Franklin, Massachusetts 02038, on behalf of John Kinney

LAW OFFICE OF DEVIN McBRIDE (By Devin W. McBride, Esq.), One International Place, Suite 1820, Boston, Massachusetts 02110, on behalf of Raymond Panaggio

KEVIN L. BARRON, ESQ., 15 Broad Street, Suite 240, Boston, Massachusetts 02109-3804, on behalf of David Akasa

1           **THE CLERK:** Now hearing Criminal Matter 13-10164,  
2 the United States of America v. Bourque, et al.

3           **THE COURT:** Good afternoon. Would counsel identify  
4 themselves.

5           **MR. YOON:** Good afternoon, your Honor. Michael  
6 Yoon for the government.

7           **MR. DEMISSIE:** Good afternoon, your Honor. Derege  
8 Demissie for Phillip Goolst who's present.

9           **MS. FELDMAN-RUMPLER:** Good afternoon, your Honor.  
10 Leslie Feldman-Rumpler for Michael Roy.

11           **MR. KORMAN:** Good afternoon, your Honor. William  
12 Korman on behalf of Thomas Ehwa who's also present here  
13 today.

14           **MR. DOMBROWSKI:** Good afternoon, your Honor. John  
15 Dombrowski on behalf of Mark Ouellette.

16           **MR. McCORMICK:** Good afternoon, your Honor. Edward  
17 McCormick on behalf of John Kinney who's in custody.

18           **MR. PALMER:** John F. Palmer for Brian Chisholm.  
19 Good afternoon, your Honor.

20           **MR. BARRON:** Kevin Barron for David Akasa, in  
21 custody.

22           **MR. McBRIDE:** Good afternoon, your Honor. Devin  
23 McBride on behalf of Raymond Panaggio who's present.

24           **MR. GRIFFIN:** Good afternoon, your Honor. Robert  
25 Griffin on behalf of Christopher Yancey who is standing

1 behind me, your Honor.

2 **MR. SCULLY:** Good afternoon, your Honor. Liam  
3 Scully for Sean Cotter.

4 **MR. DOMBROWSKI:** I already went, your Honor.

5 **THE COURT:** You already went. All right.

6 **MR. PARKER:** Peter Parker for Frank McGuire. Good  
7 afternoon, your Honor.

8 **MR. BUDREAU:** Your Honor, James Budreau on behalf  
9 of Mr. Assencoa.

10 **MR. CONNOLLY:** Bill Connolly on behalf of Michael  
11 Bourque, your Honor.

12 **THE COURT:** Well, good afternoon to you all and  
13 indeed welcome. This case is on for trial on the 13th of  
14 January.

15 Mr. Yoon, is it going?

16 **MR. YOON:** Your Honor -- I will let defense counsel  
17 speak for themselves, your Honor. The government will be  
18 prepared on that date. The status generally of the case is  
19 discovery's been provided. I'm sorry.

20 **THE COURT:** There's no need for argument.

21 **MR. YOON:** No, your Honor.

22 **THE COURT:** Are you ready?

23 **MR. YOON:** The government will be ready on the  
24 13th.

25 **THE COURT:** How long is it going to take?

1           **MR. YOON:** Your Honor, we believe that it will be,  
2           probably about, probably two weeks, ten trial days.

3           **THE COURT:** All right. So does the defense have  
4           some sort of problem with that? That's why I set them for  
5           trial.

6           **MR. CONNOLLY:** May, may I be heard, your Honor?

7           **THE COURT:** You may.

8           **MR. CONNOLLY:** And I ask that I be heard first only  
9           because I have Mr. Bourque and I think the discovery with  
10          respect to Mr. Bourque is more substantial than with respect  
11          to the other defendants.

12          Mr. Bourque was the target of a wiretap  
13          investigation, it was his telephones that were being  
14          intercepted. I've received several disks from the  
15          government containing the calls and the line sheets. The  
16          first disk that I endeavored to look at has over 8,000  
17          telephone calls and text messages. I haven't begun my  
18          review of those. And the reason I haven't begun my review  
19          of those is that the government was proposing to provide to  
20          me and to the other defendants an approximate pill count in  
21          this case. It's a case involving 30 milligram Percocet  
22          pills. I chose not to begin reviewing those calls before  
23          the government provided me that information because there  
24          was the possibility that when the government provided that  
25          information to me, based on my review of the other

1 discovery, the wiretap affidavits, that my client and I  
2 might determine that that was actually a fair pill count and  
3 that we might enter into --

4 **THE COURT:** I follow.

5 **MR. CONNOLLY:** -- a plea agreement.

6 **THE COURT:** I follow.

7 **MR. CONNOLLY:** So the bottom line is it's a huge  
8 amount of discovery for me as Mr. Bourque's lawyer to review  
9 between now and that trial date.

10 **THE COURT:** Well, I'm amenable to putting you off  
11 for a month, but I'm not fooling around, then we're going.  
12 We're going or it will resolve short of trial. And the  
13 clerk will suggest a day. I'll honor your vacations, but I,  
14 I expect to go.

15 (Whereupon the Court and the Clerk conferred.)

16 **THE CLERK:** Monday, February 10th.

17 **THE COURT:** How about the 10th?

18 **MS. FELDMAN-RUMPLER:** The following week is school  
19 vacation, so that would be difficult.

20 **THE COURT:** Well, I recognize that. Are you going  
21 away? You would just as soon not try during that week.

22 **MR. BUDREAU:** Your Honor, I have a more difficult  
23 problem. I have trials in this court, not before you, but  
24 before Judge O'Toole, scheduled for February 9th. I expect  
25 that to go for about --

1           **THE COURT:** Unless Judge O'Toole, who is certainly  
2 among the hardest working judges in the Court, unless he's  
3 starting on a Sunday it's not scheduled at that time.

4           **MR. BUDREAU:** Well, whatever that week, that week  
5 is, I'm sorry, your Honor.

6           **THE COURT:** In other words, he wants to start his  
7 case on the 10th.

8           **MR. BUDREAU:** Correct.

9           **THE COURT:** Mine's older. So I would go first.

10          **MR. BUDREAU:** Actually this case is older. I think  
11 it's a 2004, 2004 case, your Honor. He was extradited from  
12 the Dominican Republic.

13          **THE COURT:** I see. Well, suppose we skip  
14 Presidents Day and we go the --

15               (Whereupon the Court and the Clerk conferred.)

16          **THE COURT:** All right. Suppose we go the 3rd of  
17 March. The 3rd of March it is. No further continuances.  
18 It's up or down on or before that date.

19               If the case is set for trial on that date -- I will  
20 tell you that I have been called to jury service in the  
21 courts of the Commonwealth on that date. But assuming we  
22 go, I will seek a postponement. I am eligible to be excused  
23 now given my advanced age. But it would not suit me ever to  
24 decline a chance to serve on the nation's juries. So, I'll  
25 get you a postponement, but I'm going to serve.

1           So we'll assume that they'll postpone me from that  
2     date, if anyone would want me to serve.

3           So March 3rd it is.

4           **MR. SWOMLEY:** Your Honor?

5           **THE COURT:** Yes.

6           **MR. SWOMLEY:** This is John Swomley, and I greatly  
7     apologize. I thought we were on for 2:30 and I regret my  
8     late arrival. I am here and I am here when you're talking  
9     about trial dates. And I have a trial scheduled on March  
10    3rd in state court, a murder trial. I expect that will go.  
11    I expect this probably will resolve itself, but I can't say  
12    that definitively. I just thought I would --

13          **THE COURT:** I'm going to hold to the date of the  
14    3rd and we'll see where we stand.

15          **MR. SWOMLEY:** Thank you, your Honor.

16          **THE COURT:** Who is -- who's your murder case  
17    before?

18          **MR. SWOMLEY:** We haven't been sent out. It's in  
19    the murder session right now in Suffolk Superior.

20          **THE COURT:** In Suffolk. When you find out -- I've  
21    been out of that court so long, I don't know. How soon  
22    before the trial do you know?

23          **MR. SWOMLEY:** We have a final pretrial in another  
24    week or so.

25          **THE COURT:** When you know would you call



1 Ms. Gaudet.

2 **MR. SWOMLEY:** Sure.

3 **THE COURT:** I think I'm still going to hold it for  
4 the 3rd and see what happens and who blinks and the like.

5 **MR. SWOMLEY:** Thank you.

6 **THE COURT:** So, with that in mind, let me do the  
7 things that normally are done at a final pretrial  
8 conference.

9 The government will then by, by the 10th of -- no,  
10 that's wrong. By the 18th of February the government will  
11 provide in accordance with the local rules the statements  
12 and the like that it is required to provide.

13 The defense will by the 26th of February provide  
14 any, the counter designations that it is supposed to  
15 provide. And any stipulations, requests for instructions,  
16 and the like are to be provided by Friday, the 28th of  
17 February.

18 Is there something else I should do this afternoon?  
19 We'll start with Mr. Yoon.

20 **MR. YOON:** No, your Honor, nothing from the  
21 government.

22 **THE COURT:** Any of the defense counsel?

23 **DEFENSE COUNSEL:** No, your Honor.

24 **THE COURT:** Now, in the real world, should any  
25 aspect of this case resolve prior to that date please call

1 Ms. Gaudet and I'll set up a hearing right away just to pare  
2 down the numbers of you who have to appear so we're not  
3 right on the eve of trial taking care of this. I say that  
4 not in any way speaking to the substance, just as a way to  
5 save you all time.

6 That's the order of the Court. On for the 3rd of  
7 March, no further continuances.

8 **MR. YOON:** Thank you, your Honor.

9 **THE CLERK:** All rise.

10 (Whereupon the matter concluded.)

11  
12 **C E R T I F I C A T E**

13  
14 I, Donald E. Womack, Official Court Reporter for  
15 the United States District Court for the District of  
16 Massachusetts, do hereby certify that the foregoing pages  
17 are a true and accurate transcription of my shorthand notes  
18 taken in the aforementioned matter to the best of my skill  
19 and ability.

20  
21  
22 /S/ DONALD E. WOMACK 6-7-2014

23 -----  
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